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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA  
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7 BOYD GAMING CORPORATION,

8 Plaintiff,

9 vs.

10 B HOTEL GROUP, LLC,

11 Defendant.  
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Case No. 2:13-cv-00981-GMN-CWH

**ORDER**

13 This matter is before the Court on the parties' Proposed Discovery Plan and Scheduling  
14 Order (#24), filed August 12, 2013. The parties request special scheduling review based on a  
15 difference of opinion regarding the commencement of discovery in this matter. Plaintiff Boyd  
16 Gaming seeks a standard discovery schedule with the standard deadlines as measured from August  
17 26, 2013, the date of the parties 26(f) conference. Defendant B Hotel Group seeks a stay of all  
18 discovery and discovery deadlines pending a decision on its motion to dismiss (#8).

19 The Court has reviewed the proposals and finds that a stay of discovery pending resolution  
20 of the motion to dismiss is appropriate. Courts have broad discretionary power to control  
21 discovery. *See e.g., Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988). In *Tradebay, LLC*  
22 *v. eBay, Inc.*, 278 F.R.D. 597 (D. Nev. 2011), the court held that, in light of the directive in Rule 1  
23 to construe the Federal Rules of Civil Procedure in a manner to "secure the just, speedy, and  
24 inexpensive determination of every action," the preferred approach in the District of Nevada  
25 remains as has been previously set forth in *Twin City Fire Insurance v. Employers of Wausau*, 124  
26 F.R.D. 652 (D. Nev. 1989) and *Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D.  
27 554 (D. Nev. 1997). That is, generally, a pending dispositive motion is not "a situation that in and  
28 of itself would warrant a stay of discovery." *See Turner Broadcasting*, 175 F.R.D. at 554, 555-6  
(quoting *Twin City*, 124 F.R.D. at 653).

1 An overly lenient standard for granting requests to stay would result in unnecessary delay in  
2 many cases. Courts generally insist on a particular and specific demonstration of fact as opposed to  
3 merely conclusory statements that a stay is warranted. *Twin City*, 124 F.R.D. at 653. The party  
4 seeking a stay of discovery “carries the heavy burden of making a strong showing why discovery  
5 should be denied.” *Tradebay*, 278 F.R.D. at 601 (citing *Turner Broadcasting*, 175 F.R.D. at 556.  
6 Evaluation of a request for a stay often requires a magistrate to take a “preliminary peek” at a  
7 pending dispositive motion. This “preliminary peek” is not intended to prejudge the outcome, but  
8 to evaluate the propriety of a stay of discovery “with the goal of accomplishing the objectives of  
9 Rule 1.” *Tradebay*, 278 F.R.D. at 601 (citation omitted). That discovery may involve  
10 inconvenience and expense is not sufficient, standing alone, to support a stay of discovery. *Turner*  
11 *Broadcasting*, 175 F.R.D. at 601. Preliminary issues such as jurisdiction, venue, or immunity are  
12 common situations that may justify a stay. *See Twin City*, 124 F.R.D. at 653.

13 In its pending motion to dismiss, Defendant B Hotel Group challenges personal jurisdiction.  
14 Whether a court has personal jurisdiction over a defendant is a critical preliminary question. It  
15 does not, however, mandate a stay of discovery. Courts retain discretion to determine whether  
16 discovery should go forward. *See Holiday Systems, Intern. of Nevada v. Vivarelli, Schwarz, and*  
17 *Associates*, 2012 WL 3860824 (D. Nev) (finding that a magistrate judge does not abuse his  
18 discretion when he denies a stay based solely on a motion challenging personal jurisdiction). It is  
19 the undersigned’s view that a pending motion challenging jurisdiction strongly favors a stay or, at  
20 minimum, limitations on discovery until the question of jurisdiction is resolved. *See Liberty Media*  
21 *Holdings, LLC v. Letyagin*, 2012 WL 3135671 \*5 (D. Nev.) (“A defendant should not be required  
22 to engage in expensive and burdensome discovery in a court that has no jurisdiction over him.”)  
23 (citation omitted).

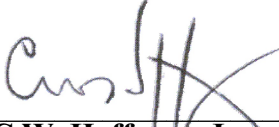
24 Normally, “discovery should . . . be granted where pertinent facts bearing on the question of  
25 jurisdiction are controverted or where a more satisfactory showing of the facts is necessary.” *Laub*  
26 *v. U.S. Dept. of Interior*, 342 F.3d 1080, 1093 (9th Cir. 2003) (citation omitted) (emphasis added).  
27 The undersigned has reviewed the briefing related to the motion to dismiss (#8) and there is no  
28 indication that discovery is necessary to resolve the jurisdictional question. Plaintiff Boyd Gaming

1 is not precluded from bringing an additional motion specifically identifying what jurisdictional  
2 discovery might be necessary, but, based on the briefing, it does not appear jurisdictional discovery  
3 is necessary. Consequently, the Court will stay discovery. Accordingly,

4 **IT IS HEREBY ORDERED** that the parties' Proposed Discovery Plan and Scheduling  
5 Order (#24) is **granted in part and denied in part**. Discovery is stayed pending resolution of the  
6 Defendant's Motion to Dismiss (#8).

7 **IT IS FURTHER ORDERED** that the parties shall submit a proposed discovery plan and  
8 scheduling order within seven (7) days of a decision being entered on Defendant's Motion to  
9 Dismiss (#8).

10 DATED: August 13, 2013.

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14 **C.W. Hoffman, Jr.**  
**United States Magistrate Judge**